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Human rights situations that require the Council's attention

Written statement* submitted by Human Rights Now, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Serious Human Rights Situation in Cambodia

Cambodia's general election, rendered non-competitive following the forced dissolution of the main opposition party, will be held on 29 July 2018.

In the run up to this event, the Cambodian government has continued to pursue its campaign of suppression, silencing critical voices and targeting media outlets, political opposition, human rights defenders (HRDs), and civil society organizations (CSO). Such attacks violate civil and political rights and fundamental freedoms, including those of press, expression, and assembly.

Human Rights Now (HRN), a Tokyo-based human rights NGO, expresses deep concern regarding this situation and urges the Cambodian government to immediately end its campaign of suppression.

I. Suppression of Critical Voices by the Cambodian Government

1) The Government's Control of the Media

Since late 2017, the government has severely restricted critical media through a series of actions including:

- The use of tax law to coerce the shutdown of the paper edition of The Cambodia Daily in September 2017;[1]
- The shutdown of dozens of radio transmissions nationwide carrying independent broadcasts, including Radio Free Asia (RFA), in August 2017 on the pretext of alleged contract violations, severely restricting independent information in rural Cambodia;[2]
- The detention of two RFA journalists, Yeang Sothearin and Uon Chhin, in November 2017 who face spurious treason charges, to which further unsubstantiated charges under the Trafficking Law were added on 29 March 2018.[3]

In addition to these restrictions, the sale of The Phnom Penh Post on 7 May 2018 raised concerns regarding its independence after it was sold to the chief executive of a Malaysian public relations firm who had worked for the Cambodian Prime Minister and who immediately interfered with the editorial independence of the paper.[4]

2) Dissolution of the Main Opposition Party

In September 2017 Cambodia National Rescue Party (CNRP) leader Kem Sokha was detained and charged with treason; weeks later the Supreme Court dissolved the CNRP for allegedly conspiring to overthrow the government, disenfranchising over three million Cambodians who voted for it as the only viable opposition party. This decision has been criticized by many stakeholders including the UN High Commissioner for Human Rights as "hav[ing] been carried out with no respect for due process guarantees...."[5] Under the Supreme Court decision, 118 CNRP elected representatives, officials, and supporters were banned from political activities for five years. Many of these individuals have left Cambodia for their own security and face arrest on return.

Since the dissolution, the government has continued persecuting and harassing former CNRP leaders and supporters. Recent developments include the seizure of the CNRP's headquarters by the Phnom Penh Municipal Court on 27 February 2018 and the rejection by the Supreme Court of a request from Kem Sokha's lawyer that he be granted

1 BBC, 3 September 2017, http://www.bbc.com/news/world-asia-41141473.

2 The Cambodian Daily, 28 August 2017, https://www.cambodiadaily.com/news/anger-mounts-as-radio-purge-knocks-19-stations-off-air-134077/.

3 Broadcasting Board of Governors (US), 01 May 2018, https://www.bbg.gov/threats-to-press/uon-chhin/

4 The New York Times, 7 May 2018, https://www.nytimes.com/2018/05/07/world/asia/cambodia-phnom-penh-post-sale.html.

5 Human Rights Council, "Role and achievements of the Office of the United Nations High Commissioner for Human Rights in assisting the Government and people of Cambodia in the promotion and protection of human rights", A/HRC/37/64, 2 February 2018, art. 5, http://undocs.org/A/HRC/37/64.

bail on 7 May 2018.[6] In May, the UN Working Group on Arbitrary Detention declared Kem Sokha's on-going detention arbitrary.[7] Another activist and UNHCR-recognised refugee, Sam Sokha, was reportedly deported from Thailand and sentenced to two years in prison for posting a video on Facebook in which she threw her sandal at a picture of the Prime Minister, according to court documents accessed by The Phnom Penh Post.[8]

Additionally, in a statement made 7 May 2018, the Prime Minister warned Cambodian citizens that spreading leaflets calling to boycott the election would be illegal under article 142 of the Law on Election of Members of the National Assembly, in reaction to a call from former CNRP leader Sam Rainsy.[9] The amended Law on Political Parties further holds that any party posing a threat to ruling party dominance could be dissolved at the request of the government.[10]

3) Harassment of HRDs and CSOs

As in our previous Council statement, HRN remains concerned about the shutdown by the Interior Ministry of the informal election-monitoring platform "Situation Room", the arrest and conviction of two environmental activists working for the NGO Mother Nature, and the dissolution and temporary suspension, respectively, of the National Democratic Institute and Equitable Cambodia under the Law on Associations and NGOs (LANGO). On 18 January 2018, prosecutors in Cambodia also sought criminal charges against Moeun Tola, Executive Director of the Center for the Alliance of Labor and Human Rights (CENTRAL), for alleged "breach of trust" regarding misappropriated funds raised for the funeral of a government critic assassinated in July 2016.

These developments have occurred in the context of increasing legislative restrictions on human rights. Since 2015, Cambodia has passed multiple laws specifically designed to restrict rights and freedoms. In February 2018, the ruling party amended multiple articles to potentially restrict legitimate activities and the exercise of rights, including the right to vote.[11] At the same time, Cambodia's parliament amended its criminal law to include a lèse-majesté provision and constitutional amendments modifying the rights of voters. These changes were criticized by two UN Special Rapporteurs who concluded that "[l]ese majeste provisions are incompatible with Cambodia's obligations under international human rights law, as they criminalize the legitimate exercise of freedom of speech."[12] Since then, two individuals have been charged with lèse-majesté for social media activity.[13]

II. Human Rights Violations and Inconsistencies with International Standards

According to the Human Rights Committee, under article 19 of the ICCPR, member states should "ensure that journalists can carry out their activities without fear of being subjected to prosecution" and "protect media pluralism and avoid state monopolization of media."[14] Thus, the systematic prosecution of critical media and journalists and the *de facto* control of the remaining media by the government is a violation of article 19 of the ICCPR.

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6 Reuters, 27 February 2018, https://www.reuters.com/article/us-cambodia-politics/cambodian-court-orders-seizure-of-opposition-partys-headquarters-idUSKCN1GB158;
The New York Times, 07 May 2018, https://www.nytimes.com/reuters/2018/05/07/world/asia/07reuters-cambodia-politics.html.

7 Reuters, 9 May 2018, https://www.reuters.com/article/us-cambodia-politics-un/un-urges-cambodia-to-free-opposition-leader-calls-detention-arbitrary-idUSKBN1IA18V.

8 The Phnom Penh Post, 09 February 2018, https://www.phnompenhpost.com/national/extradited-shoe-thrower-sam-sokha-faces-two-year-prison-sentence.

9 The Phnom Penh Post, 07 May 2018, https://www.phnompenhpost.com/national/hun-sen-warns-dispersing-election-boycott-leaflet.

10 Reuters, 10 July 2017, https://www.reuters.com/article/us-cambodia-politics/cambodia-changes-election-law-ahead-of-2018-vote-idUSKBN19V0F4.

11 OHCHR, "UN experts say constitutional changes in Cambodia impinge on democracy", 20 February 2018, http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22674&LangID=E.

12 *Id.*

13 The Phnom Penh Post, 22 May 2018, https://www.phnompenhpost.com/national/second-man-charged-under-countrys-lese-majeste-law.

14 Human Rights Committee, "Concluding observations of the Human Rights Committee – Ukraine", CCPR/CO/73/UKR, 12 November 2001, art. 22(a), https://undocs.org/CCPR/CO/73/UKR;

Furthermore, the politically-motivated harassment and restriction of leaders, members, and supporters of CNRP orchestrated by the government and Supreme Court violates ICCPR articles 9(1) (freedom from arbitrary detention), 21 (right of assembly), 22(1) (freedom of association), 25 (right to political participation), and 26 (prohibition of discrimination based on political opinion).[15]

Finally, the persecution of Cambodian HRDs and CSOs and legislation that enables it are inconsistent with the UN Declaration on Human Rights Defenders as well as the Paris Peace Agreements which bind Cambodia to "support the right of all Cambodian citizens to undertake activities which would promote and protect human rights and fundamental freedoms...."[16]

III. Recommendations

HRN is deeply concerned about Cambodia's continuing campaign of suppression against critical voices, and we urgently call on the Cambodian government to:

- Drop unjustified charges and restrictions against media outlets, political opposition, HRDs and CSOs, and ensure respect of rights and freedoms;
- End the politically motivated detention of the two RFA journalists, Yeang Sothearin and Uon Chhin; of CNRP leaders Kem Sokha and Sam Rainsy; and of human rights activists Sam Sokha and Moeun Tola;
- Substantively revise or abolish repressive legislation, including LANGO and amendments to the Law on Political Parties, the Constitution, and criminal law, to ensure Cambodia's law is consistent with its obligations under international law.

Additionally, HRN requests relevant state governments to:

- Take effective measures against the Cambodian government to support implementation of the Council's relevant resolutions on Cambodia;
- Suspend assistance to Cambodia's electoral institutions and funding related to the 2018 election and make public statements affirming that this election cannot be considered a free and fair election following the forcible dissolution of the main opposition party.

Human Rights Committee, "Concluding observations of the Human Rights Committee – Sri-Lanka", CCPR/CO/79/LKA, 01 December 2003, art. 17, https://undocs.org/CCPR/CO/79/LKA.

15 ICCPR, 16 December 1966, http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx.

16 UN General Assembly, "Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms", Res. 2200 A (XXI), A/RES/21/2200 annex, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf;
Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, 23 October 1991, art. 15(2)(a), http://treaties.fco.gov.uk/docs/pdf/1991/TS0111.pdf.